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Acting Under Authority Conferred By 28 U.S.C. § 515

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Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	CR-18-00258-EJD
)	
Plaintiff,)	STIPULATION AND [PROPOSED] SECOND
)	SUPPLEMENTAL PROTECTIVE ORDER
v.)	
)	
ELIZABETH HOLMES and)	
RAMESH "SUNNY" BALWANI,)	
)	
Defendants.)	
)	
)	

The United States of America, by and through ADAM A. REEVES, Attorney for the United States Acting Under Authority Conferred by 28 U.S.C. § 515, and JEFF SCHENK, JOHN C. BOSTIC, and ROBERT S. LEACH, Assistant United States Attorneys for the Northern District of California, and the defendants, ELIZABETH HOLMES and RAMESH "SUNNY" BALWANI, and their attorneys, KEVIN M. DOWNEY and LANCE A. WADE of Williams & Connolly for HOLMES, and JEFFREY B. COOPERSMITH and STEPHEN A. CAZARES of Davis Wright Tremaine for BALWANI, hereby stipulate as follows.

1 On July 9, 2010, the government made available to the defense for its inspection and review
2 documents Bates-numbered AGENT_NOTES-000001 to AGENT_NOTES-000848, which consist of agent
3 notes of the Federal Bureau of Investigation (“FBI”), United States Postal Inspection Service (“USPIS”), and
4 Food and Drug Administration, Office of Criminal Investigations (“FDA-CI”) (“Agent Notes”);

5 On July 22, 2019, the Court issued an Order re Review of Agent Notes, directing the parties to meet
6 and confer regarding a stipulated protective order regarding the defendants’ receipt, handling, and use of the
7 notes.

8 The parties have met and conferred and jointly request that the Court issue a Second Supplemental
9 Protective Order as follows:

10 1. The Agent Notes, and any notes of the FBI, USPIS, or FDA-CI subsequently produced by
11 the government bearing the Bates prefix “AGENT_NOTES,” shall be considered “Protected Materials.”

12 2. The defendants, the defendants’ attorneys, and members of the defense team (including any
13 investigators, paralegals, law clerks, assistants, expert witnesses, and other persons who are within the
14 attorney-client privilege) shall not provide copies, or otherwise disclose the contents, of the Protected
15 Materials to any third party or make any public disclosure of the Protected Materials.

16 3. The defendants, the defendants’ attorneys, and members of the defense team may duplicate
17 the Protected Materials only to the extent necessary to prepare the defense of this matter; they shall
18 maintain the Protected Materials in a secure environment at the law offices of the undersigned counsel;
19 they may use the Protected Materials and their contents only to prepare the defense of this matter; and they
20 may not use the Protected Materials, or their contents, in any other proceeding.

21 4. Either defendant may at any time serve upon counsel for the United States a written notice
22 objecting to any designation by the United States pursuant to paragraph 1. If agreement cannot be reached
23 promptly, defendant may seek relief from the Court.

24 5. Any pleadings that reveal the contents of Protected Materials shall be filed under seal or
25 redacted to prevent the disclosure of such contents.

26 6. Before trial, the parties shall meet and confer regarding appropriate procedures for use of
27 Protected Materials at trial.

1 DATED: July 30, 2019

Respectfully submitted,

2 ADAM A. REEVES
Attorney for the United States
3 Acting Under Authority Conferred
By 28 U.S.C. § 515

4 /s/
5

6 _____
JEFF SCHENK
JOHN C. BOSTIC
7 ROBERT S. LEACH
Assistant United States Attorneys
8

9 DATED: July 30, 2019

WILLIAMS & CONNOLLY LLP

10 /s/
11

12 _____
KEVIN M. DOWNEY
LANCE A. WADE
Attorneys for Elizabeth Holmes
13

14
15 DATED: July 30, 2019

DAVIS WRIGHT TREMAINE LLP

16 /s/
17

18 _____
JEFFREY B. COOPERSMITH
STEPHEN A. CAZARES
Attorneys for Ramesh “Sunny”
19 Balwani
20

21 SO ORDERED.

22 DATED: _____

23 _____
THE HONORABLE EDWARD J. DAVILA
United States District Court Judge
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